

Remarks

In view of the following remarks, favorable reconsideration of the outstanding office action is respectfully requested. Claims 1 – 38 remain in this application.

**1. Allowed Claims/Subject Matter**

Applicant notes with appreciation that the Examiner has indicated the subject matter of claims 5 – 6 is patentable, and would be allowable if rewritten in independent form.

**2. § 103 Rejections**

A. The Examiner has rejected claims 1, 7 – 9, 22, 23, and 33 – 35 under 35 U.S.C. § 103 as being unpatentable for obviousness over U.S. Patent No. 6,275,797 to Randic. Independent claims 1, 22, 33, 34, and 35 are patentable under 35 U.S.C. § 103 because the Examiner does not make a prima facie case for obviousness because he has failed to point out where Randic teaches all of the elements recited in the claims. Furthermore, independent claims 1, 22, 33, 34, and 35 are patentable under 35 U.S.C. § 103 because the Examiner does not provide any suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference teachings. In the current Office Action, the Examiner repeats his rejection and provides a response to the Applicant's arguments. In response, the Applicant reasserts the arguments made in the January 2, 2004 response and responds to the Examiner's new arguments in the paragraphs that follow.

1. Randic does not teach or suggest the Step of Transmitting at least one set of N waveforms.

The Applicant pointed out in his last response that Randic does not teach or suggest the step of transmitting "at least one set of N waveforms from the first network location, each transmitted waveform including a waveform characteristic operative to assign a predetermined value relative to other waveforms in the at least one set, such that a predetermined sequence of values are assigned to packets carrying the N transmitted waveforms," as recited in claims 1, 33, and 34.

The Examiner asserts that Randic, in col. 3, lines 53 – 57, "expressly discloses that the 'AVR system 24 compares the speech patterns in the transmitted voice test files... with speech

patterns of the voice test file' where the transmitted voice file contains the at least one set of N waveforms." The cited text does not support the Examiner's assertions.

The phrase in paragraph 1 of the Examiner's arguments, "where the transmitted voice file contains the at least one set of N waveforms," has no basis in Randic. The Applicant has carefully reviewed col. 3, lines 53 – 57 and there is no hint or mention of a set of N waveforms being transmitted by Randic. The subject matter is simply not present in the text. Further, the Examiner fails to point out where Randic teaches or discloses that each waveform in the N waveforms includes a waveform characteristic operative to assign a predetermined value relative to other waveforms in the at least one set, wherein a predetermined sequence of values are assigned to packets carrying the N transmitted waveforms," as recited in claim 1, claim 33, and claim 34. As such, the Examiner has failed to point out where Randic discloses the step of transmitting as recited in claims 1, 33, and 34.

2. Randic does not teach or suggest the Step of Receiving at least one set of N waveforms.

The Applicant has pointed out that Randic does not teach or suggest the steps of "receiving at least one telephonic signal at the second network location via the communications channel" and "processing the at least one telephonic signal to obtain a received sequence of values," as recited in claims 1, 33, and 35.

In response, the Examiner asserts that "Randic expressly discloses that the received voice file is compared with stored voice file to determine 'the number of matching letters, words, or sentences between transmitted voice file 17 and stored voice test file 23.' " On its face, the Examiner's assertion does not conform with the well-settled obviousness standard clearly articulated in MPEP 2143, i.e., that Randic must teach all of the elements recited in the claims. With regard to the Examiner's statements, Randic is directed to matching words or sentences in a voice file. On the other hand, the claims are directed to obtaining a sequence of values from the received signal. As noted above, each waveform is assigned a value based on a waveform characteristic. A word or sentence is not a waveform characteristic such as peak power level, frequency, amplitude, and/or etc.

The Examiner states that because the term "value" is not defined in the claim, the Examiner is free to use "the term 'value' to be letters, words, or sentences contained in the test file." The Applicant respectfully points out that the Examiner is attempting to apply Randic's "words" and "sentences" to two separate claim elements. First, the Examiner asserts

that the "words" and "sentences" should be construed as waveforms, and at the same time be construed as values. Second, the Applicant believes that the Examiner is using a highly idiosyncratic definition of the word "value" to improperly support his rejection. No one of ordinary skill in the art would equate the words "letter," "word," or "sentence" with the term "value" because the ordinary meanings of these words are never equated with a numerical value. The terms "letter," "word," or "sentence" are components of written speech, whereas Webster's Dictionary defines the term "value" as meaning "an assigned or calculated numerical quantity." Thus, it is simply improper for the Examiner to replace the accepted meaning of common terms with his own idiosyncratic definition. Accordingly, Randic's AVT system is configured to compare interpreted words, phrases, and/or sentences, but it does not describe "processing the at least one telephonic signal to obtain a received sequence of values," as recited in the claims.

As such, the Examiner has failed to point out where Randic discloses the steps of receiving and processing as recited in claims 1, 33, and 35.

3. Randic does not teach or suggest the Step of comparing the received sequence of values to the predetermined sequence of transmitted values

In the Applicant's last response, the Applicant showed that Randic does not teach or suggest the step of "comparing the received sequence of values to the predetermined sequence of transmitted values to detect dropped packets without having access to packet switched network control data," as recited in claim 1, claim 33, and claim 35.

The Examiner asserts that "Randic discloses that alteration of the voice test file often results in missing (dropped) packets (col. 5, lines 23 – 48). Randic also discloses that the "system performs tests to determine a voice path quality factor where alteration of the voice test file due to missing packets negatively impacts the voice path quality factor" (col. 6, lines 9 – 43). The Examiner goes on to say that "While Randic does not expressly disclose that dropped packets are detected, it is inherent that Randic's system would detect dropped packets since missing packets would alter the voice signal and so negatively impact the voice path quality factor."

The Examiner's reasoning is problematic for two reasons. First, the Applicant again points out that even if everything the Examiner states is true, which it is not, the Examiner's rationale does not address the recited claim language. The Examiner statement that Randic "performs tests to determine a voice path quality factor" is quite different than the recited step

of “*comparing the received sequence of values to the predetermined sequence of transmitted values to detect dropped packets without having access to packet switched network control data*” as recited in the claims. Simply put, the Examiner fails to point out where Randic teaches or suggests the step of comparing a received sequence of values to a transmitted sequence of values. Second, the Examiner’s statement is an admission that Randic does not teach or suggest detecting dropped packets. The Examiner tries to overcome this deficiency by asserting that the claimed subject matter is inherent in Randic. Applicant respectfully points out that the Examiner does not properly apply the doctrine of inherency:

“To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’ ” *In re Robertson*, 49 USPQ2d.1949, 1950-51 (Fed. Cir. 1999) (emphasis added).

In this instance, the Examiner offers no evidence whatsoever to support his assertion that the missing subject matter is “necessarily present” in Randic. However, Randic does not include the claimed subject matter because Randic is directed to measuring voice path quality and not to determining a cause for degraded service. Service may be degraded for several reasons and the measurement of voice quality does not necessarily include the step of determining a cause for a given level of service. Thus, Randic does not necessarily include dropped packet detection.

Thus, the cited text in Randic does not teach, suggest, or disclose the step of comparing the received sequence of values to the predetermined sequence of transmitted values to detect dropped packets, as recited in claim 1, claim 33, and claim 35.

#### 4. Dependent Claims

As noted in the Applicant’s last response, the dependent claims are allowable in their own right. For example, claim 7 recites that the waveform includes a first segment and a second segment. Claim 8 recites that the second segment includes the representative characteristic. The Examiner continues to insist that a word or sentence in a voice file be construed as a first segment or second segment of a waveform. At this point, the Examiner now asserts that “words” and “sentences” should be construed to cover three claim elements. According to the Examiner, a “word” in Randic’s voice file should be construed as a

waveform, a waveform segment, and a value. This is simply improper. The Examiner does not show where Randic teaches or suggests all the limitations recited in claims 7 – 8, which include the limitations of claim 1.

5. The Examiner has failed to provide any statement regarding a suggestion or motivation to modify the Randic reference.

As noted in Applicant's last response, the Examiner has failed to provide any proper motivation or suggestion to supply the claim elements missing from Randic. The Examiner did not address the arguments presented in the last response with regard to claims 1 and 33 – 35.

Accordingly, the Applicants respectfully assert that claims 1 – 21 and 33 – 38 are patentable under 35 U.S.C. § 103(a) because the Examiner has failed to show where Randic teaches or suggests all the claim limitations recited in claims 1, 33, 34, or 35, and because the Examiner failed to where the references, or the knowledge generally available to those skilled in the art, provide any motivation to modify Randic in the manner suggested by the Examiner.

6. The Examiner failed to respond to Applicant's arguments regarding claim 22.

In Applicant's last response, the Applicant pointed out that the Examiner failed to provide an independent examination of independent claim 22. Claims 22 recites a transmission unit configured to send at least one set of N waveforms over the telecommunications network, each transmitted waveform including a waveform characteristic operative to assign a predetermined value relative to other waveforms in the at least one set, such that a predetermined sequence of values are assigned to packets carrying the N transmitted waveforms. The Examiner fails to point out where the claimed transmission unit can be found in Randic. To make a prima facie case of obviousness, it is incumbent upon the Examiner to point out where each and every element of the claimed invention may be found in the cited reference.

Claim 22 also recites a receiver unit operative to receive a telephonic signal from the telecommunications network, the receiver also being configured to derive a received sequence of values from the telephonic signal, and compare the received sequence of values to the predetermined sequence of values to detect dropped packets, without having access to packet

switched network transmission control data. The Examiner also fails to point out where the claimed receiver unit can be found in Randic.

7. The Examiner has failed to make a prima facie argument because he has failed to point out where the cited text teaches or suggests all of the claim limitations of the dependent claims.

In the Applicant's last response, the Applicant respectfully asserted that the Examiner must point out where, in this very large block of text (col. 4, line 31 through col. 6, line 43), each element may be found. In his rejection, the Examiner merely repeated the claim language and pointed to the cited block of text in Randic. The Applicant carefully reviewed the block of text and did not find any of the claim elements therein. The Applicant subsequently requested that the Examiner be more specific and point to where these elements may be found in the cited text.

In response, the Examiner states "Although the cited passage is large, the cited text includes many passages referenced in the rejections of other claims." Applicant responds by stating that if there are many passages related to the claims, the Examiner should point them out with specificity. The Examiner goes on to say that the "Examiner assumes Applicant has familiarity with much of the text contained in the cited passage. Given this familiarity with the passages, Examiner asserts that a prima facie argument has been made." Unfortunately, the Examiner again misapplies obviousness doctrine. The burden is on the Examiner to meet each of the three obviousness criteria found in *In re Vaeck*, and he has not met this burden.

The Examiner further asserts that in col. 4, lines 33 – 41, Randic discloses "a transmission unit that comprises a computer readable medium for storing data representing the at least one set of N waveforms." The cited passage is repeated here for the Examiner's convenience:

"Voice test file 23, as mentioned above, is generated by a computer at step 40. Voice test file 23 contains common reference voice patterns or speech characteristics that test the integrity of voice paths 20, 21, 22, 35, 37. For example, voice test file 23 can include long sentences that segment the test file 23 over a wide variety of different paths inside the WAN 11. Before voice test file 23 is transmitted through a corresponding voice path under test, voice test file 23 is compressed and encapsulated at step 41."

The cited text does not mention "at least one set of N waveforms..., each transmitted waveform including a waveform characteristic operative to assign a predetermined value

relative to other waveforms in the at least one set, such that a predetermined sequence of values are assigned to packets carrying the N transmitted waveforms,” as recited in claim 22. Therefore, Randic cannot have a computer-readable medium for storing N waveforms of the type recited in the claim.

The Examiner relies on the same passage for a processor programmed to retrieve data representing the N-waveforms. Unfortunately, Randic does not teach or suggest the N-waveforms. The Examiner again relies on the same passage for the recited codec. However, Randic teaches that “the voice test file 23 is compressed and encapsulated,” but Randic does not teach or suggest encoding or decoding.

Therefore, the Examiner has failed to make a *prima facie* argument because he has failed to point out where the cited text teaches or suggests all of the claim limitations.

8. The Examiner has failed to provide any statement regarding a suggestion or motivation to modify the Randic reference.

The Examiner now asserts that his rejection of claims 22 – 23 is proper under 35 U.S.C. § 103(a) because “Randic *implicitly* teaches or suggests all of the claim limitations of claims 1, 7 – 9, 22, 23, and 33 – 35.” In paragraph 3 above, the Applicant has shown that all of the claim limitations are not inherent in Randic, and further, that the Examiner has misapplied the inherency doctrine to supply features that are not present in the reference in support of his rejection. The Examiner again relies on inherency to establish a motivation for modifying the references. However, to establish a *prima facie* case of obviousness, “there must be some suggestion or motivation, *either in the references themselves or in the knowledge generally available to one of ordinary skill in the art*, to modify the reference or to combine reference teachings. *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 2143. However, the Examiner fails to point to any motivation in the reference itself or in the knowledge generally available to those skilled in the art, to modify Randic in the manner the Examiner suggests. Neither MPEP 2143 nor *In re Vaeck* list inherency as a bona fide reason for modifying a reference to supply missing claim elements.

Accordingly, the Applicant respectfully asserts that claims 22 – 32 are patentable under 35 U.S.C. § 103(a) because the Examiner has failed to show where Randic teaches or suggests all the claim limitations recited in claim 22 or in the claims depending therefrom.

B. The Examiner has rejected claims 2 – 4, 11, 12, 14 – 19, 24 – 28, and 36 under 35 U.S.C. § 103 as being unpatentable for obviousness over Randic, as applied to claims 1, 14, 22, and 35, in view of U.S. Patent No. 5,633,909 to Fitch. The Examiner has failed to make a *prima facie* case for obviousness. Dependent claims 2 – 4, 11, 12, 14 – 19, 24 – 28, and 36 are patentable under 35 U.S.C. § 103 because the Examiner has failed to point out where the combination of Randic and Fitch teach all of the elements recited in the claims. Furthermore, dependent claims 2 – 4, 11, 12, 14 – 19, 24 – 28, and 36 are patentable under 35 U.S.C. § 103 because the Examiner does not provide any suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. The Applicant reasserts the arguments made in the January 2, 2004 response. In the following paragraphs, the Applicant responds to the Examiner's arguments provided in his "response to Arguments" section of the final Office Action.

The Applicant has pointed out that Randic does not teach or suggest the subject matter of independent claims 1, 22, or 35. The Examiner has failed to show, and indeed does not assert, that Fitch remedies the deficiencies of Randic with regard to the independent claims. Therefore, claims 2 – 4, 11, 12, 14 – 19, 24 – 28, and 36 are allowable by virtue of their dependency from the patentable independent claims.

1. The Examiner fails to respond to Applicant's arguments regarding claims 2 – 4.

The Examiner asserts that Fitch (col. 7, lines 33 – 39) teaches the use of power signals to test a telecommunications system. The cited text states that an ND converter may be used to determine the power of sampled information. However, Fitch's disclosure is irrelevant vis a vis the claimed subject matter. Including the subject matter of claim 1, claim 2 fully recites "N waveforms..., each transmitted waveform including a waveform characteristic operative to assign a predetermined value relative to other waveforms in the at least one set, such that a predetermined sequence of values are assigned to packets carrying the N transmitted waveforms example, wherein the representative waveform characteristic is a peak power level." Accordingly, claim 2 is not directed to determining the power of sampled information. Thus, Fitch does not disclose the subject matter of claim 2. Claim 3 recites that the "the representative waveform characteristic is an average power level." Claim 4 recites that "each

waveform in the set of N waveforms includes a representative waveform characteristic corresponding to one of N peak power levels.” Claim 11 recites that “the representative waveform characteristic includes a frequency of the waveform.” Claim 12 recites that “the representative waveform characteristic includes a number of phase changes present in a segment of the waveform.” The method steps of claims 14 – 19 and 36 are simply ignored. The system features of claims 24 – 28 are ignored.

As such, the Examiner simply fails to show where either Randic or Fitch, whether taken alone, or in combination, teach or suggest any of this subject matter. Accordingly, the Applicants respectfully assert that claims 2 – 4, 11, 12, 14 – 19, 24 – 28, and 36 are patentable under 35 U.S.C. § 103(a) because the Examiner has failed to show where the combination of Randic and Fitch teach or suggest all the limitations recited in claims.

2. The Examiner fails to respond to the Applicant’s arguments that Randic and Fitch are not properly combinable.

The Examiner repeats his reasons for combining Randic and Fitch. However, he fails to respond to the Applicant’s arguments as to why these references are not combinable.

As noted in the last response, MPEP 2143.01 states, “if the proposed combination would change the principle of operation of the prior art invention being modified, then the teachings of the references are sufficient to render the claims prima facie obvious.” In this case, Randic transmits a voice file over a packet network for comparison with a pre-stored voice file. The method tests the quality of the voice path, i.e., the packet network, by performing a word-by-word comparison of the transmitted file with respect to the stored file. On the other hand, Fitch teaches a unit for testing a System-Under-Test (SUT), such as a PBX. Fitch determines if the SUT stores and retrieves a test message properly (See col. 2, lines 28 – 37). One of ordinary skill in the art would not be motivated to combine Fitch with Randic, because the principle of operation behind Randic is to test the network voice path, Randic provides a remote test unit that is known to be functional. The tests are configured to measure the quality of the network path. On the other hand, the principle of operation behind Fitch is to test a remote end system. The tests are configured to determine if the remote system properly responds to the test inputs; the quality of the network voice path is immaterial. Thus, one skilled in the art would not employ Fitch’s testing procedures in Randic because the principle behind Fitch is quite different than the principle behind Randic.

Accordingly, the Applicants respectfully assert that claims 2 – 4, 11, 12, 14 – 19, 24 – 28, and 36 are patentable under 35 U.S.C. § 103(a) because there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the teachings of Randic with Fitch.

C. The Examiner has rejected claims 10, 20, 29, 30, and 37 as being unpatentable for obviousness over Randic, as applied to claims 1, 14, 22, and 35, in view of Fitch, as applied to claims 2 – 4, 11, 12, 14 – 19, 24 – 28, and 36, and further in view of Newton's Telecom Dictionary [hereinafter Newton]. The Examiner has failed to make a prima facie case for obviousness under 35 U.S.C. § 103 because the Examiner has failed to point out where the combination of Randic, Fitch, and Newton teach or suggest all of the elements recited in dependent claims 10, 20, 29, 30, and 37. Furthermore, these claims are patentable under 35 U.S.C. § 103 because the Examiner fails to provide any suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. The Applicant reasserts the arguments made in the January 2, 2004 response. In the following paragraphs, the Applicant responds to the Examiner's arguments provided in his "response to Arguments" section of the final Office Action.

1. The Examiner fails to show where the combination of Randic, Fitch, and Newton teach or suggest the subject matter recited in the claims.

The Examiner asserts that "Applicant argues that the proposed combination does not disclose the subject matter of the dependent claims...While Applicant makes this broad assertion, Applicant fails to argue any specifics as to why this is true. Without any specific argument to address, Examiner will rely on the rejection contained in the previous and current Office Actions..."

The Applicant respectfully points out that the Examiner's rationale is not in accordance with the obviousness standards found in MPEP 2143 for two reasons. First, the initial burden for making a prima facie case of obviousness rests on the Examiner. The Examiner is required to point out where the proposed combination includes every limitation in the claims. In the last response, the Applicant pointed out that the Examiner failed to meet this burden. Second, the Applicant did provide a specific argument. The Applicant pointed out that neither Randic,

Fitch, nor Newton teach or suggest “using a CELP symbol as a representative waveform characteristic.” Referring to the Examiner’s above quoted statement, the Examiner should respond by pointing out which reference, or combination of references, teaches or suggests “at least one set of N waveforms..., each transmitted waveform including a waveform characteristic operative to assign a predetermined value relative to other waveforms in the at least one set, such that a predetermined sequence of values are assigned to packets carrying the N transmitted waveforms, wherein the representative waveform characteristic is a waveform corresponding to a CELP symbol, as recited in claims 10, 20, 29, 30, and 37. The Examiner’s suggested combination is to use a CELP symbol in Randic’s voice file. This does not result in Applicant’s invention.

2. There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings.

The Examiner states that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a CELP symbol as a waveform characteristic since CELP symbols distinguish each waveform and thus would be useful in comparing two waveforms where this results in voice recognition software not being needed.”

Once again, the Examiner ignores the clearly articulated standards provided in MPEP 2143. Again, “to establish a *prima facie* case of obviousness, “there must be some suggestion or motivation, *either in the references themselves or in the knowledge generally available to one of ordinary skill in the art*, to modify the reference or to combine reference teachings.” The Examiner asserts that one skilled in the art would use a CELP symbol in Randic’s voice file. The Examiner provides no reference to any portion of the references for support for his assertion. Further, the Examiner provides no reference to any recognized body of knowledge generally available to those skilled in the relevant arts. On the other hand, Applicant respectfully submits that the Examiner uses improper hindsight to restate the features of Applicant’s claimed invention. This is manifestly evident because none of the references teach or suggest, whether taken alone or in combination, the use of “a CELP symbol as a waveform characteristic,” as the Examiner suggests.

Accordingly, the Applicants respectfully assert that claims 10, 20, 29, 30, and 37 are patentable under 35 U.S.C. § 103(a).

D. The Examiner has rejected claims 13, 21, 31, 32, and 38 as being unpatentable for obviousness over Randic, as applied to claims 1, 14, 22, and 35, in view of Fitch, and further in view of U.S. Patent No. 5,748,876 to Hardy.

In the last response, the Applicant pointed out that the dependent claims recite that “the representative waveform corresponds to a semantically encoded waveform.” The Examiner asserted that Fitch (col. 6, lines 36 – 43) teaches speech recognition and that Hardy describes a system and a method for testing semantically encoded waveforms. Accordingly, neither of the references disclose using a semantically encoded waveform as a representative waveform characteristic.

The Examiner employs some legerdemain when he states that “it is not the individual references taken separately that disclose using a semantically encoded waveform as a representative waveform characteristic but rather the combination of references discloses using the semantically encoded waveform as a representative waveform characteristic.” In other words, the Examiner admits that the claimed subject matter cannot be found in any of the references. Somehow, the Examiner argues, when one puts the references together, the teaching emerges. However, the clearly articulated standard for obviousness states that prior art references when combined must teach or suggest all the claim limitations. As pointed out above, none of the references, whether taken alone or in combination, teach or suggest the subject matter of the independent claims, namely, “at least one set of N waveforms... each transmitted waveform including a waveform characteristic operative to assign a predetermined value relative to other waveforms in the at least one set...” Claims 13, 21, 31, 32, and 38 provide a further limitation that “the representative waveform characteristic includes a semantically encoded waveform.” If the combination of references do not teach the limitations of the base claim they cannot teach all of the limitations of the dependent claim.

2. There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings.

In the last response, Applicant pointed out that Randic and Fitch are not properly combinable. Hardy applies to circuit switched networks whereas Randic applies to testing a packet switched network. Thus, the combination of Randic, Fitch, and Hardy is improper.

The Examiner states that the rationale for combining references may be found in Hardy (col. 5, lines 37 – col. 6, line 31). He asserts that Hardy teaches that various transmission mediums and formats may be employed. However, the cited portion of Hardy refers to various alternative computer components, but makes no mention of being compatible with packet switching. For example, col. 5, lines 37 – 44 refers to storage units. The remainder of column 5 discusses communications interfaces and the TQMS. The subject matter of column 6 refers to storage of software. The cited text does not discuss packet switched networks. Thus, Randic and Fitch are not properly combinable at least because Hardy applies to circuit switched networks whereas Randic applies to testing a packet switched network.

The Applicants respectfully assert that claims 13, 21, 31, 32, and 38 are patentable under 35 U.S.C. § 103(a) because the prior art references when combined must teach or suggest all the claim limitations and because there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings for the reasons provide above.

#### 4. Conclusion

Based upon the amendments, remarks, and papers of record, Applicant believes the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicant respectfully requests reconsideration of the pending claims 1 – 38 and a prompt Notice of Allowance thereon.

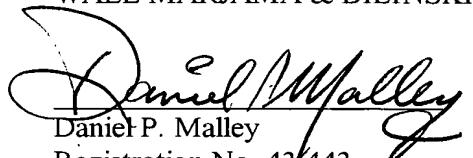
Applicant believes that no extension of time is necessary to make this Response timely. Should Applicant be in error, Applicant respectfully requests that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to MCI WorldCom Deposit Account 13-2491.

Please direct any questions or comments to Daniel P. Malley at (607) 256-7307.

Respectfully submitted,

WALL MARJAMA & BILINSKI

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